

IN THE U.S. DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

THOERN CHAN and
MOMHOURN CHAN,

Plaintiffs,

vs.

Case No.

NATIONWIDE MUTUAL INSURANCE
COMPANY DBA HARLEYSVILLE,

Magistrate Judge

Defendant.

NOTICE OF REMOVAL

Defendant Nationwide Mutual Insurance Company d/b/a Harleystville (“Defendant”) submits this Notice of Removal and notifies the Judges of the United States District Court for the Western District of Tennessee; Jimmy Moore, the clerk of the Circuit Court of Shelby County, Tennessee; and counsel for Plaintiffs, Thoern Chan and Momhourn Chan, that this action, which was filed in the Circuit Court of Shelby County, Tennessee, Docket No. CT-002545-15, is removed to the United States District Court for the Western District of Tennessee, Western Division, under 28 U.S.C. § 1441.

1. On June 16, 2015, Plaintiffs Thoern Chan and Momhourn Chan filed a civil action bearing Docket No. CT-002545-15 against Defendant Nationwide Mutual Insurance Company d/b/a Harleystville in the Circuit Court of Shelby County, Tennessee.

2. Plaintiffs' Complaint alleges that Plaintiffs are residents of Shelby County, Tennessee. With regard to Defendants' citizenships, Plaintiffs allege that Defendant Nationwide Mutual Insurance Company d/b/a Harleysville is an insurance company with its principle place of business located in Harleysville, Pennsylvania.

3. Plaintiffs seek actual, compensatory and punitive damages in the amount of \$500,000, as well as reasonable attorneys' fees.

4. Before filing this Notice of Removal, Defendant has made no filing in State court that could be construed as a general appearance and has waived no defenses. Thus, the Defendant expressly reserves all objections and defenses to which they may be entitled, including objections and defenses as to the propriety of process, service of process, personal jurisdiction, and all other objections and defenses available under Federal Rule of Civil Procedure 12(b) and applicable federal and Tennessee state law. See Morris & Co. v. Skandinavia Ins. Co., 279 U.S. 405, 409 (1929); Cherokee Ins. Co. By & Through Weed v. E.W. Blanch Co., 66 F.3d 117, 119 (6th Cir. 1995); Mullen v. Sears Roebuck, & Co., 887 F.2d 615, 616-18 (5th Cir. 1989); Barnette v. Grizzly Processing, LLC, 809 F. Supp. 2d 636, 641 (E.D. Ky. 2011). The Defendant further reserves the right to petition this Court for a transfer or change of venue under 28 U.S.C. § 1404.

5. Defendant seeks removal of this action to this Court under 28 U.S.C. § 1332 on the grounds that the controversy is between citizens of different states and involves an amount in controversy that exceeds \$75,000, exclusive of interest and cost.

6. This notice is being filed within the time prescribed by 28 U.S.C. § 1446(b).

7. Copies of the Complaint and Summons, which are all the papers filed and served in this action, are attached hereto as **Exhibit A**, in accordance with 28 U.S.C. § 1446(a).

8. A Notice of Filing Notice of Removal is being filed with the Shelby County, Tennessee, Circuit Court. A copy of the Notice is attached as **Exhibit B**.

9. A Civil Cover Sheet is attached as **Exhibit C**.

WHEREFORE, Notice is hereby given that civil action number CT-002545-15 is removed from the Circuit Court of Shelby County, Tennessee, to the United States District Court for the Western District of Tennessee, Western Division.

Respectfully submitted,

RAINEY, KIZER, REVIERE & BELL, P.L.C.

By: /s/Bradford D. Box _____
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CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of this pleading or document was served upon counsel for each of the parties by the Clerk of Court using the CM/ECF system.

Edward M. Bearman
Jeffrey A. Land
THE LAW OFFICES OF EDWARD M. BEARMAN
780 Ridge Lake Blvd., Suite 202
Memphis, TN 38120
Attorneys for Plaintiffs

This 22nd day of July 2015.

/s/Bradford D. Box _____